

DON'TS

The public facilities prohibition does not supersede the open records provisions of the statute. If documents, including mailing lists, are public records they must be made available to all citizens who request them even if it is known that they will be used for political purposes. (The disclosure law prohibits supplying "lists of individuals" for commercial purposes absent specific legal authorization; however, political use is not considered a commercial purpose.)

DO'S

Listed below are some activities that officials and employees may engage in while working:

Register citizens to vote, spend time on election day poll checking, wear campaign lapel buttons (unless agency has a policy to the contrary), display bumper stickers on private vehicles (even if parked in agency's lot), and respond to election-related questions in an objective, balanced and factual manner;

On their own time, and not with the use of public property or equipment, campaign for or against any candidate or ballot issue, distribute campaign material, solicit voluntary campaign contributions, make campaign contributions, speak before groups in support of personal positions or otherwise undertake advocacy activities.

These are some examples of activities that public officials and employees may not undertake:

Campaign or solicit political contributions during work hours, using public telephones or other equipment, or on government property, including in staff lounges, cafeterias or break rooms;

Carry or display political material in or on publicly owned vehicles;

Display or distribute campaign posters, placards or other promotional material on publicly owned or operated premises;

Use government supplies, equipment or facilities to print, mail, or otherwise produce or distribute campaign materials;

Solicit signatures for any initiative, recall or referendum campaign on publicly owned or operated premises.

Call PDC for Assistance

For more information, contact PDC:

Tel: (360) 753-1111 or toll-free 1-877-601-2828

Fax: (360) 753-1112

Email: pdc@pdc.wa.gov

Public Facilities and Campaigns ...



...Keeping Them Separate



PUBLIC

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Statutory Prohibition

By state law, elected officials and public employees are prohibited from using the facilities of public agencies to help pass or defeat a ballot measure or to support or oppose a candidate's election.

This prohibition, found in RCW 42.17.130, reads: *"No elective official nor any employee of his office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to a ballot proposition. Facilities of public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, any clientele lists of persons served by the office or agency: PROVIDED, That the foregoing provisions of this section shall not apply to the following activities:*

1) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body or members of the public

are afforded an approximately equal opportunity for the expression of an opposing view;

2) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry;

3) Activities which are part of the normal and regular conduct of the office or agency."

Of these three exceptions to the otherwise sweeping prohibition against using public facilities in campaigns, the one that has caused the most confusion relates to "normal and regular conduct."

The Public Disclosure Commission (PDC) has defined "normal and regular conduct" to mean *"conduct which is (1) lawful, i.e., specifically authorized, either expressly or by necessary implication, in an appropriate enactment, and (2) usual, i.e., not effected or authorized in or by some extraordinary means or manner."*

In addition, no local office or agency may authorize a use of public facilities for the purpose of assisting a campaign or promoting or opposing a ballot measure, in the absence of a constitutional, charter, or statutory provision separately authorizing such use.

Interpretation

Another rule adopted by the Commission says that the public facilities prohibition *"does not restrict the right of any individual to express his or her own personal views concerning, supporting, or opposing any candidate or ballot proposition, if such expression does not involve a use of the facilities of a public office or agency."*

Nor does it *"prevent a public office or agency from (a) making facilities available on a non-discriminatory, equal access basis for political uses or (b) making an objective and fair presentation of facts relevant to a ballot proposition, if such action is part of the normal and regular conduct of the office or agency."*

Public agencies most often invite criticism, erosion of their credibility and complaints to PDC when they approach the not-altogether-bright line that distinguishes legal and acceptable activities from those that are prohibited.

For instance, public agencies are obligated to respond to citizen inquiries about the anticipated impact of a given ballot issue; however, the information provided must be objective, balanced and impartial. It must not advocate, overtly or by implication, passage or defeat of the measure.